

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Barron Henderson,) Civil Action No. 6:10-1866-RBH-KFM
Petitioner,)
vs.) **REPORT OF MAGISTRATE JUDGE**
Warden FCI-Estill,)
Respondent.)

The petitioner brought this action seeking relief pursuant to Title 28, United States Code, Section 2241. On September 16, 2010, the respondent filed a motion to dismiss. On September 17, 2010, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the petitioner was advised of the summary dismissal procedure and the possible consequences if he failed to respond adequately. Despite this explanation, the petitioner elected not to respond to the motion.

As the petitioner is proceeding *pro se*, the court filed a second order on November 10, 2010, giving the petitioner an additional 21 days in which to file his response to the motion to dismiss. The petitioner was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. The petitioner elected not to respond.

Based on the foregoing, it appears the petitioner no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989), *cert. denied*, 493 U.S. 1084 (1990).

December 14, 2010
Greenville, South Carolina

s/Kevin F. McDonald
United States Magistrate Judge